

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF VIRGINIA
Richmond Division

In Re: George Thomas Whitehead and
Patricia Whitehead,
Debtors.

Case No. 13-34755-KLP
Chapter 13 Proceeding

STUDLEY, LP,)
)
Plaintiff,)
)
v.)
)
GEORGE THOMAS WHITEHEAD,)
PATRICIA WHITEHEAD,)
and)
ROBERT E. HYMAN, Trustee,)
)
Defendants.)

**NOTICE OF AND MOTION FOR RELIEF FROM
THE AUTOMATIC STAY OF 11 U.S.C. § 362 AND NOTICE OF HEARING**

Studley, LP (“Studley”) has filed papers with the Court to seek relief from the automatic stay.

Your rights may be affected. You should read these papers carefully and discuss them with your attorney, if you have one in this bankruptcy case. (If you do not have an attorney, you may wish to consult one.)

If you do not want the Court to grant the relief sought in this motion, or if you want the Court to consider your views on the motion, then within fourteen (14) days from the date of service of this motion, you must file a written response explaining your position with the Court at the following address:

File with the Court an answer, explaining your position at:

Robert H. Chappell, III, Esquire (VSB #31698)
Jennifer J. West, Esquire (VSB #47522)
James K. Donaldson, Esquire (VSB #80307)
Spotts Fain PC
411 East Franklin Street, Suite 600
Richmond, Virginia 23219
Phone: (804) 697-2000 Fax: (804) 697-2100
Counsel for Studley, LP

William C. Redden, Clerk
U.S. Bankruptcy Court
Eastern District of Virginia
Richmond Division
701 East Broad Street, Suite 4000
Richmond, VA 23219

If you mail your request or response to the Court for filing, you should mail it early enough so the Court will receive it on or before the date stated above.

You must also mail a copy to

Jennifer J. West, Esquire
Spotts Fain PC
411 East Franklin Street, Suite 600
Richmond, Virginia 23219

and to

Robert E. Hyman, Trustee
P.O. Box 1780
Richmond, VA 23218-1780

You must attend a hearing to be held on **April 23, 2014 at 11:00 a.m.** in Judge Phillips' Courtroom, United States Bankruptcy Court, U.S. Courthouse, 701 E. Broad Street, Room 5100, Richmond, Virginia 23219.

If you or your attorney do not take these steps, the Court may decide that you do not oppose the relief sought in the Motion and may enter an Order granting that relief.

MOTION FOR RELIEF FROM STAY

Studley submits the following Motion for Relief from the Automatic Stay of 11 U.S.C. § 362, requesting the Court permit Studley to enforce its remedies under its security instruments and state law, including the right to foreclose upon and sell certain property owned by the Debtors, as defined herein, or enter an order granting it adequate protection of its security interest. In support of this Motion, Studley states the following:

1. Jurisdiction is conferred upon this Court pursuant to 28 U.S.C. § 1334. This matter is a “core” proceeding as set forth under 28 U.S.C. § 157.

2. On September 3, 2013 (the “Petition Date”), George Thomas Whitehead and Patricia Whitehead (the “Debtors”) filed a petition under Chapter 13 of Title 11 of the United States Code.

3. On September 4, 2013, the Court appointed Robert E. Hyman as Interim Trustee and Mr. Hyman continues to serve as the Trustee for the Bankruptcy Estate of the Debtors.

4. On or about June 27, 2012, the Debtors executed a First Deed of Trust Note (the “Note”) in the original principal amount of \$51,500.00 payable to Studley. Studley is the holder of the Note. A copy of the Note is attached hereto as Exhibit 1.

5. The Note was modified by a Modification to Mortgage Note dated January 7, 2013 (the “Modification”). A copy of the Modification is attached hereto as Exhibit 2.

6. The Note is secured by a First Deed of Trust dated June 27, 2012, and recorded in the Clerk’s Office, Circuit Court of the City of Richmond, Virginia at Instrument #120012615, on June 28, 2012 (the “Deed of Trust”). The Deed of Trust was executed by the Debtors and encumbers a parcel of real estate owned by them in the City of Richmond, Virginia described as and known hereafter as 2409 Ruffin Road, Richmond, Virginia 23234 (the “Property”) and more particularly described below. A copy of the Deed of Trust is attached hereto as Exhibit 3.

7. The legal description of Property 1 is:

ALL that certain lot, piece or parcel of land, lying and being in the City of Richmond, Virginia (formerly Chesterfield County) known as 2409 Ruffin Road, being part of the western half of Lot 20, and part of the eastern half of Lot 21, in Block C, on the Plan of Summer Hill Plaza, as shown on a plat of survey made by F. T. Seargent, dated September 14, 1976, a copy of which is recorded in the Clerk’s Office of the Circuit Court of the City of Richmond, Division II, in Deed Book 487, page 223, and to which reference is hereby made for a more particular description of said lots.

BEING the same property conveyed to George T. Whitehead and Patricia Whitehead, husband and wife, as tenants by the entirety with the right of survivorship as at common law, by Deed from

Studley, P.P., formerly known as Reed, L.P., a Virginia limited partnership, dated June 20, 2012, to be recorded immediately prior hereto.

8. Studley is a secured creditor of the Debtors with a payoff of \$45,875.31 as of March 26, 2014 on the Note.

9. The Debtors' Chapter 13 Plan was confirmed on November 12, 2013 and provides that the Debtors will make regular contract payments for the Note directly to Studley upon existing contact terms.

10. As of March 24, 2014, the Note was delinquent for post-petition payments due to Studley for the months of February 2014 and March 2014 in the total amount of \$1,677.92, which includes late charges of \$66.12. The April payment in the amount of \$838.26 will be due on April 1, 2014.

11. The interests of Studley in the Property are not adequately protected constituting cause for granting relief from the automatic stay of 11 U.S.C. § 362(d)(1).

12. Studley requests that the fourteen-day period under Rule 4001(a)(3) of the Federal Rules of Bankruptcy Procedure during which the stay remains in effect be waived and any Order granting relief shall become effective immediately upon entry.

WHEREFORE, Studley, LP respectfully requests that this Court enter an Order granting Studley, LP relief from the automatic stay of 11 U.S.C. § 362 as to the Property, allowing Studley, LP to enforce its remedies under the Note, the Deed of Trust and under state law, including the right to foreclose upon the Property and that the fourteen-day period under Rule 4001(a)(3) of the Federal Rules of Bankruptcy Procedure during which the stay remains in effect be waived and that any Order granting relief shall become effective immediately upon entry or

otherwise granting it adequate protection of its security interest, and that it have such other and further relief as the Court may deem appropriate.

STUDLEY, LP

By: /s/ Jennifer J. West
Counsel

Robert H. Chappell, III, Esquire (VSB #31698)
Jennifer J. West, Esquire (VSB #47522)
James K. Donaldson, Esquire (VSB #80307)
Spotts Fain PC
411 East Franklin Street, Suite 600
Richmond, Virginia 23219
Phone: (804) 697-2000
Fax: (804) 697-2100
Counsel for Studley, LP

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing Notice of and Motion for Relief from Automatic Stay and Notice of Hearing was sent via U.S. Mail, postage prepaid, and/or delivered by electronic means, this 27th day of March, 2014 to the following, constituting all necessary parties:

George Thomas Whitehead
2409 Ruffin Road
Richmond, VA 23234

Patricia Whitehead
2409 Ruffin Road
Richmond, VA 23234

Nnika E. White, Esquire
Law Office of White and Associates
9101 Midlothian Turnpike, Suite 800
Richmond, VA 23235

Robert E. Hyman, Trustee
P.O. Box 1780
Richmond, VA 23218-1780

/s/ Jennifer J. West _____

SPECIAL NOTICE

THE FOLLOWING NOTICE IS GIVEN TO YOU IN THE EVENT THAT THE FAIR DEBT COLLECTION PRACTICES ACT (15 U.S.C. 1692 *et seq*) APPLIES TO THIS COMMUNICATION.

THIS IS AN ATTEMPT TO COLLECT A DEBT AND ANY INFORMATION OBTAINED WILL BE USED FOR THAT PURPOSE. THIS COMMUNICATION IS FROM A DEBT COLLECTOR.